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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150227200-5347-02]

RIN 0648-BE79

Fisheries Off West Coast States; West Coast Salmon Fisheries; Management

Reference Point Updates for Three Stocks of Pacific Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to update management reference point values for Southern Oregon coastal Chinook salmon, Grays Harbor fall Chinook salmon, and Willapa Bay natural coho, as recommended by the Pacific Fishery Management Council (Council) for use in developing annual management measures beginning in 2015.

DATES: This final rule is effective [*insert date of publication in the Federal Register*].

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206-526-4323.

SUPPLEMENTARY INFORMATION:

Background

The Council manages West Coast ocean salmon fisheries under the Pacific Coast Salmon Fishery Management Plan (FMP). Over the course of two Council meetings (November 2014 and March 2015), the Council adopted management reference point

values for three stocks of Pacific salmon: Southern Oregon coastal Chinook salmon, Grays Harbor fall Chinook salmon, and Willapa Bay natural coho. The management reference points, as described in the proposed rule (80 FR 14066, March 18, 2015), include: conservation objective (a value unique to the FMP, generally an annual spawning escapement goal), the fishing mortality rate expected to result in maximum sustainable yield (F_{MSY}), MSY spawner abundance (S_{MSY}), minimum stock size threshold (MSST), and maximum fishery mortality threshold (MFMT, generally equal to F_{MSY}). For one stock that was added to the FMP under Amendment 16, Willapa Bay natural coho, the Council also confirmed the formula for determining the annual catch limit (ACL), as required under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The proposed rule was developed based on Council recommendations from the November 2014 Council meeting. At that time, the Council had not explicitly adopted all of the management reference point values; therefore, NMFS proposed adopting some of the values pursuant to NMFS' independent rulemaking authority (18 U.S.C. 1855(d)), and those values were described in the proposed rule. The Council took action at the March 2015 meeting to adopt the remaining management reference point values. The reference point values being implemented by this final rule are based on the best available science developed through the Council's 2014 methodology review. They were recommended to the Council by the Salmon Technical Team, and were reviewed and endorsed, to the extent appropriate, by the Scientific and Statistical Committee. The reference point values being implemented are presented in Table 1.

Table 1. Updated management reference points adopted by the Council and implemented in this final rule.

Reference point	Southern Oregon coastal Chinook	Willapa Bay natural coho	Grays Harbor fall Chinook
FMP Conservation Objective (escapement)	41,000 (measured at Huntley Park)	17,200	13,326
S_{MSY} (escapement)	34,992	17,200	13,326
MSST (escapement)	20,500 (measured at Huntley Park)	8,600	6,663
MFMT	54 percent	74 percent	63 percent
ACL Definition	Not applicable	Based on F_{ABC} and annual ocean abundance, F_{ABC} is F_{MSY} reduced by Tier 1 (5%) uncertainty	Not applicable

Response to Comments

NMFS accepted comments on the proposed rule to update management reference point values through April 2, 2015. NMFS received six public comment submissions from individuals, via the *www.regulations.gov* portal. The comments, and NMFS' responses, have been grouped for similarity.

Comment 1: Two individuals expressed support for the proposed rule, referring to it as a “great idea” and praising the economic benefits of a fishery with “fair measurements.”

Response: NMFS agrees that a sustainably managed fishery is beneficial.

Comment 2: Three individuals supported fish and the fishing industry, but did not provide specific comments on the proposed rule.

Response: NMFS agrees that fisheries should be managed to be beneficial to both the fish and the public. Under the MSA, NMFS is responsible for sustainable management of the nation's fisheries. This rule is consistent with that obligation and addresses requirements of the FMP and MSA National Standard 1.

Comment 3: One individual asked "where are the proposed fisheries?"

Response: This rule does not propose fisheries. Salmon management measures for ocean salmon fisheries off the coasts of Washington, Oregon, and California are set annually through the Council process (<http://www.pcouncil.org/salmon/>).

Updated information from the Proposed Rule

The Council took final action at their March 2015 meeting to adopt the three management reference points described in the proposed rule that were previously not explicitly adopted by the Council (Willapa Bay natural coho MSST, and Grays Harbor fall Chinook MSST and MFMT). The Council transmitted this action to NMFS in a letter dated April 1, 2015. Therefore, under this final rule, NMFS implements all of the management reference point values in the proposed rule as recommended by the Council. See Table 1 for the management reference points adopted by the Council and implemented in this final rule.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this rule is consistent with the Pacific Salmon Fishery Management Plan, the MSA, and other applicable law.

This rule has been determined to be not significant for purposes of Executive Order 12866.

The West Coast Regional Administrator has determined that the actions of this rule qualify for categorical exclusion from further NEPA analysis under NAO 216-6.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule and is not repeated here. No comments were received regarding the economic impact of this final rule. As a result, a RFA is not required and none has been prepared.

This rule does not establish any new reporting or recordkeeping requirements. This rule does not include a collection of information. No Federal rules have been identified that duplicate, overlap, or conflict with this action.

This action is not expected to have adverse effects on any species listed under the Endangered Species Act (ESA) or designated critical habitat. This action modifies reference points used in the setting of annual management measures for West Coast salmon fisheries. NMFS has current ESA biological opinions that cover fishing under annual regulations adopted under the FMP on all listed salmon species except Lower Columbia River natural coho; NMFS expects to complete a new biological opinion for Lower Columbia River natural coho prior to implementing 2015 salmon management measures on May 1, 2015. NMFS reiterates their consultation standards for all ESA-listed salmon and steelhead species in their annual Guidance letter to the Council. Some of NMFS past biological opinions have found no jeopardy, and others have found

jeopardy, but provided reasonable and prudent alternatives to avoid jeopardy. The annual management measures are designed to be consistent with the biological opinions that found no jeopardy, and with the reasonable and prudent alternatives in the jeopardy biological opinions. The Council's recommended management measures, which will be consistent with the reference points implemented by this rule, therefore comply with NMFS' consultation standards and guidance for all listed salmon species which may be affected by Council fisheries. In some cases, the recommended measures are more restrictive than NMFS' ESA requirements.

In 2009, NMFS consulted on the effects of fishing under the Salmon FMP on the endangered Southern Resident Killer Whale Distinct Population Segment (SRKW) and concluded the salmon fisheries were not likely to jeopardize SRKW. Annual salmon management measures are designed to be consistent with the terms of that biological opinion.

This rule was developed after meaningful collaboration with the affected tribes, through the Council process. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian Tribe with Federally recognized fishing rights from the area of the Council's jurisdiction.

The Assistant Administrator for Fisheries finds that good cause exists under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness. This rule implements changes in management reference points that will be used in setting ocean salmon fisheries, beginning in 2015. As previously discussed, the actions in this rule were developed through the Council's Methodology review. The actions were adopted by the Council over two Council meetings and the final recommendation was transmitted to

NMFS in April 2015. The Council took action on some of the management reference points in November 2014 and transmitted their initial recommendations to NMFS on January 23, 2015, with further clarification transmitted to NMFS on February 9, 2015. The Council finalized adoption of the management reference points and transmitted them to NMFS on April 1, 2015. Therefore, this rulemaking could not be implemented sooner. Delaying the effectiveness of the actions in this rule by 30 days would result in managing the three affected stocks in a manner that is not consistent with the best available science, and would complicate NMFS' approval and implementation of salmon fisheries recommended by the Council, beginning May 1, 2015. Delay in implementing this rule would have the following effects on the impacted stocks: Southern Oregon coastal Chinook and Grays Harbor fall Chinook would be subject to overfishing, as the current MFMT would be higher than recommended by the STT and adopted by the Council; Willapa Bay natural coho would have no defined reference points, no way to evaluate for overfishing, and no defined annual catch limit. Therefore, if the effectiveness of this rule is delayed, it would undermine the purposes of this agency action and the requirements of the Magnuson-Stevens Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 7, 2015

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

